

REMARKS

The foregoing amendment to claim 2 is now submitted, taking into account the Examiner's stated basis for refusing entry of the previously submitted Rule 116 Amendment. The present amendment again structurally emphasizes and thereby confirms the Examiner's assumption that "the contaminated fluid is flowing internally through the processing elements along their length and the filtrate is coming out laterally of the processing elements into the chamber that contains the processing elements", as stated on page 2 of the Final Office action. Thus claim 2 as amended specifies "--processing elements through which a contaminate laden fluid is filtered--within-- the sealed chamber--through which the filtered fluid is laterally withdrawn by gravitational collection as a cleansed portion--and drain means--for discharging said cleansed portion--in response to said gravitational collection thereof below the elongated processing element--." As now amended claim 2 avoids directly characterizing drain discharge as "gravitational", even though it is implied in the specification and so shown in FIGS. 1 and 2. The term "gravitational" is now applied to the collection of the filtrate from which it is thereby discharged as explicitly indicated in the specification. Entry of the presently proposed amendment to claim 2 and withdrawal of its rejection under 35 U.S.C. 112 is therefore expected.

In regard to the final rejection of claims 2 and 3 under 35 U.S.C. 102(e) over the Funatsu et al. patent, as previously indicated, it is incorrectly asserted on page 3 of the Final Office action that: "Funatsu (451) teaches--'drain for discharge of clean fluid (6, fig. 1)". The Examiner is therefore again urged to more carefully review the disclosure in the Funatsu et al. patent, such as column 5, lines 59-67 which states: "cells 10--fed from--cell inlet 6 formed in the housing 1--". On this account alone, the final rejection is in error and should be withdrawn.

In regard to the final rejection of claims 2 and 3 under 35 U.S.C. 102(b) over the Garcera et al. patent, as previously indicated it is based on the disclosure of fluid undergoing separation treatment by circulation flow through membrane channels 2 in elements 1 within a casing 11 having a side tube 48 secured thereto. Such circulation flow is shown and described by arrows 3 and 4 in FIG. 1 of the Garcera et al. patent, respectively extending out of only one axial end of the casing 11 and out of the side tube 48. The Garcera et al. patent does not indicate or describe flow 4 through the side tube 48 as gravitational collection and drainage below the channels 2 during flow between non-existent inlet and outlet ends thereof, pursuant to the recitations in claims 2 and 3 under consideration as hereinbefore pointed out. Accordingly, the final rejection over the Garcera et al. patent is also in error.

In view of the foregoing, withdrawal of the final rejections as set forth in the current Final Office action is in order, and is hereby again requested in advance of the Oct. 14, 2003 deadline for appeal.

Respectfully submitted,

Jacob Shuster
JACOB SHUSTER, Reg. No. 19,660
Attorney for Applicants

Tele: (301) 227-1835
OFFICE OF COUNSEL CODE 39
NAVAL SURFACE WARFARE CENTER
CARDEROCK DIVISION HEADQUARTERS
DAVID TAYLOR MODEL BASIN
9500 MACARTHUR BOULEVARD
WEST BETHESDA, MD 20817-5700

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